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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DEC 3 0 1996

Federal Communications Commission
Office of Secretary

In the Matter of)	
)	
Implementation of the Pay Telephone)	CC Docket No. 96-128
Reclassification and Compensation)	
Provisions of the Telecommunications)	
Act of 1996)	
)	
BellSouth Comparably Efficient)	
Interconnection Plan for Payphone)	
Service Providers)	

To: Chief, Common Carrier Bureau

**COMMENTS OF THE
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION**

The Competitive Telecommunications Association ("CompTel"), by its attorneys, submits the following comments on the Comparably Efficient Interconnection ("CEI") Plan for payphone services filed by BellSouth Corporation on November 22, 1996. This BellSouth CEI Plan is submitted pursuant to the Commission's instructions in this docket.^{1/} On its face, however, the BellSouth CEI Plan falls far short of meeting FCC requirements.

In the *Report and Order*, the Commission required each Bell Operating Company ("BOC") to file a CEI Plan "describing how it intends to comply with the CEI equal access parameters and nonstructural safeguards for the provision of payphone services."^{2/} The

^{1/} *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Report and Order*, FCC 96-388 (released September 20, 1996) and *Order on Reconsideration*, FCC 96-439 (released November 8, 1996).

^{2/} *Report and Order* at ¶ 202.

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underlying purpose of this requirement "is to ensure that the BOCs provide payphone services in a nondiscriminatory manner and consistent with other Computer III and ONA requirements."^{3/} The *Report and Order* explains in detail the items to be covered in the BOC CEI Plans.^{4/} By reviewing these plans, the Commission will "evaluate the application of the nondiscrimination and cross-subsidy nonstructural safeguards to the provision of payphone services."^{5/}

The *Report and Order* is very specific about the information to be provided for this evaluation. The Plan "must describe how [the BOC] intends to comply with the 'equal access' parameters for the specific payphone service it intends to offer."^{6/} These equal access parameters include:

- interface functionality;
- unbundling of basic services;
- resale;
- technical characteristics;
- installation, maintenance and repair;
- end user access;
- CEI availability;
- minimization of transport costs; and
- availability to all interested customers.

In addition, the CEI Plan must describe how the BOC will unbundle basic payphone services and service functions and associate them with a specific tariffed rate element; the Plan must

^{3/} Id.

^{4/} Id. at ¶¶ 203-07.

^{5/} *Order on Reconsideration* at ¶ 220.

^{6/} *Report and Order* at ¶ 203.

include nonproprietary information used in providing the unbundled basic services. Further, the CEI Plan must explain how the BOC will comply with the Commission's CPNI requirements, as well as the Computer III and ONA network information disclosure requirements and the requirements regarding nondiscrimination in the quality of service, installation and maintenance.

The BellSouth CEI Plan purports to provide all the required information merely by stating, under a heading for each item, that it intends to comply. The Plan contains virtually no actual description or explanation of BellSouth's planned actions. As such, the "CEI Plan" is actually only a "CEI Promise" which gives the Commission, and interested parties, nothing to evaluate. Other than its bare assertions that it intends to comply, BellSouth has given the Commission no basis on which it may find the Plan to be acceptable.

For example, the BellSouth description and explanation of its plan to comply with interface functionality requirements is contained in one essential sentence: "BellSouth will satisfy this requirement by having BSPC purchase and utilize the same tariffed services that are available to other providers of payphone services."^{2/} That sentence represents the totality of BellSouth's description of the standardized hardware and software interfaces to be provided to support transmission, switching and signaling functions. The Commission is given no basis to judge for itself whether BellSouth's plans are in compliance; it must simply take the Company's word for it. This pattern is repeated throughout BellSouth's CEI Plan.

In effect, BellSouth's Plan reflects an attempt to substitute structural separation for nonstructural safeguards. BellSouth states that it "has chosen for independent reasons to

^{2/} BellSouth CEI Plan at 4.

conduct its payphone operations through a corporate entity distinct from its basic service operations."^{8/} The payphone entity, called BellSouth Public Communications, Inc. ("BSPC"), is a wholly-owned subsidiary of BBS Holdings, Inc., which, in turn, is wholly-owned by BellSouth Telecommunications, Inc.

After describing this arrangement, BellSouth goes on to cite FCC orders which state that CEI requirements are easily met when a distinct entity is used. Possibly so, but with two important caveats.

First, the "distinct entity" must be sufficiently separate to provide proper assurances against discrimination and cross-subsidy. The BellSouth CEI Plan gives no information at all about the degree of separation between BSPC and its ultimate parent, BellSouth Telecommunications, Inc. If the companies share officers, directors, employees, books of account, or other key factors, or otherwise fail to meet the criteria for structural separation, then BellSouth is not entitled to rely on this separation as a proper protective measure.

Second, even where the requirements are "easily" met, they still must be met. BellSouth may have easy explanations for each of the items required to be in the Plan, but it must provide them. Merely reciting, in response to each requirement, that it will treat BSPC in the same manner as all other payphone providers, is not sufficient. Instead, it must describe the procedures and provide the information required so that the Commission may judge for itself whether discrimination or cross-subsidy is present. The Plan filed on November 22, 1996, simply is not sufficient.

^{8/} Id. at 3.

CONCLUSION

The Commission has required the BOCs to submit CEI Plans which describe and explain the manner in which the BOCs will comply with the Computer III and ONA requirements in their provision of service to payphone providers. In order to be acceptable, those plans must contain sufficient information for the Commission to determine that the BOC will be in compliance with its rules and requirements.

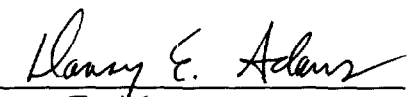
The BellSouth CEI Plan filed on November 22 does not provide the requisite information. Instead, it is nothing more than a series of bare assertions that BellSouth will not discriminate between its own payphone operations and those of competitors. These representations, without supporting explanation or description, cannot serve as the basis for a Commission finding of compliance. Accordingly, the BellSouth CEI Plan must be rejected.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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